

capacity of the debtor, as by his becoming a lunatic. (b) And it is also settled, that no alteration in the civil, political, or pecuniary condition of the debtor can authorize a court of justice to fetter or abolish any of the creditor's remedies arising out of the personal liability of his debtor, either by confining the creditor to a particular fund; or altogether to the person of the debtor; or by compelling him to seek satisfaction of any one alone, where two or more have been made liable by the nature of the contract. (c)

As where, in England, the debtor had been attainted of felony, whereby all his property had become forfeited; or where he had become a bankrupt, without a certificate, and had his whole estate put into the hands of his assignees; or where by a special act of the legislature all his estate had been vested in trustees for particular purposes; or where the estate of a British subject had, by an act of assembly of one of the states of our Union, been confiscated; such circumstances were not allowed, in any manner, to impair the obligation of the contract, to diminish the rights of the creditor, or to lessen the liability of the debtor, even although it should clearly appear, that the surety could not have the security assigned to him; or that it would be impossible for him to take the place of the creditor in any respect whatever. A court of equity cannot interpose to enlarge the effect of a legal contract, nor can it be called upon to cut down its then subsisting legal operation. Because, even as in the case of an attainder, according to the law of England, by which the debtor is civilly dead, and all his property forfeited, the law implies from such a contract, that the creditor can charge his debtor's person in execution; and even in circumstances from which there appears to be no ray of hope of getting any thing by it, the creditor has a right to take his chance of that; the court has no right to judge for him what he can make out of the imprisonment of his debtor, operating by way of duress upon the feelings and affections of third persons; or as it is expressed in an ancient English statute, 'until he have made agreement, or his friends for him.' Because it is the contract of the parties, and the court has no right to apply the terms, 'wilful, malicious, and oppressive,' to what the law under those circumstances allows. Such are the doctrines of the English Court of Chancery, by which it appears, that no hardships or sufferings, however

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(b) *Owen v. Davies*, 1 Ves. 82.—(c) *Jennings v. Elster*, 7 Cond. Cha. Rep. 115; *Wilkinson v. Henderson*, 7 Cond. Cha. Rep. 173.